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<b>PETITION FEE</b> Under 37 CFR 1.17(f), (g) & (h) <b>TRANSMITTAL</b> (Fees are subject to annual revision)  Send completed form to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450	<b>Application Number</b>	<b>10/783,018</b>
	<b>Filing Date</b>	<b>February 23, 2004</b>
	<b>First Named Inventor</b>	<b>Noboru MORISHITA et al.</b>
	<b>Art Unit</b>	<b>2186</b>
	<b>Examiner Name</b>	<b>Unassigned</b>
	<b>Attorney Docket Number</b>	<b>566.43530X00</b>


Enclosed is a petition filed under 37 CFR 1.102(d) that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

**Payment of Fees** (small entity amounts are NOT available for the petition (fees))

- ☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 50-1417:
- ☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☒ any deficiency of fees and credit of any overpayments
- Enclose a duplicative copy of this form for fee processing.
- ☐ Check in the amount of \$ \_\_\_\_\_ is enclosed.
- ☒ Payment by credit card (From PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

<b>Petition Fees under 37 CFR 1.17(f):</b>	<b>Fee \$400</b>	<b>Fee Code 1462</b>
For petitions filed under: § 1.53(e) - to accord a filing date. § 1.57(a) - to according a filing date. § 1.182 - for decision on a question not specifically provided for. § 1.183 - to suspend the rules. § 1.378(e) for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent. § 1.741(b) - to accord a filing date to an application under §1.740 for extension of a patent term.		
<b>Petition Fees under 37 CFR 1.17(g):</b>	<b>Fee \$200</b>	<b>Fee code 1463</b>
For petitions filed under: §1.12 - for access to an assignment record. §1.14 - for access to an application. §1.47 - for filing by other than all the inventors or a person not the inventor. §1.59 - for expungement of information. §1.103(a) - to suspend action in an application. §1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available. §1.295 - for review of refusal to publish a statutory invention registration. §1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued. §1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent. §1.550(c) - for patent owner requests for extension of time in <u>ex parte</u> reexamination proceedings. §1.956 - for patent owner requests for extension of time in <u>inter partes</u> reexamination proceedings. § 5.12 - for expedited handling of a foreign filing license. § 5.15 - for changing the scope of a license. § 5.25 - for retroactive license.		
<b>Petition Fees under 37 CFR 1.17(h):</b>	<b>Fee \$130</b>	<b>Fee Code 1464</b>
For petitions filed under: §1.19(g) - to request documents in a form other than that provided in this part. §1.84 - for accepting color drawings or photographs. §1.91 - for entry of a model or exhibit. §1.102(d) - to make an application special. §1.138(c) - to expressly abandon an application to avoid publication. §1.313 - to withdraw an application from issue. §1.314 - to defer issuance of a patent.		

<b>Name (Print/Type)</b>	<b>Frederick D. Bailey</b>	<b>Registration No. (Attorney/Agent)</b>	<b>42,282</b>
<b>Signature</b>		<b>Date</b>	<b>January 28, 2005</b>

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



566.43530X00

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Noboru MORISHITA et al.

Serial No.: 10/783,018

Filed: February 23, 2004

For: REMOTE COPY SYSTEM

**PETITION TO MAKE SPECIAL  
UNDER 37 CFR 1.102(d) and MPEP. §708.02, VIII**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

January 28, 2005

Sir:

**1. Petition**

Applicants hereby petition to make this application **Special**, in accordance with 37 CFR §1.102(d) and MPEP 708.02, VIII. The present invention is a new application filed in the United States Patent and Trademark Office on February 23, 2004 and as such has not received any examination by the Examiner.

**2. Claims**

Applicants hereby represent that all the claims in the present application are directed to a single invention. If upon examination it is determined that all the claims presented are not directed to a single invention, Applicants will make an election without traverse as a prerequisite to the granting of special status.

### **3. Search**

Applicants hereby submit that a pre-examination search has been made by a professional searcher, (a copy of which is attached), in the following classes and subclasses:

<u>Class</u>	<u>Subclass</u>
711	111, 112, 113, 161, 162, 165, 167
707	204
710	1
714	5, 6, 7 and 15

### **4. Copy of References**

A listing of all references found by the professional searcher is provided on a Form PTO-1449 and copies of the references and the Form PTO-1449 are submitted as part of an Information Disclosure Statement (IDS) filed on even date.

### **5. Detailed Discussion of the References and Distinctions Between the References and the Claims**

Below is a discussion of the references uncovered by the search and cited in the IDS filed on even date that appear to be most closely related to the subject matter encompassed by the claims of the present application, and which discussion particularly points out how Applicants' claimed subject matter is distinguishable over those references. All other references uncovered by the search and cited in the IDS filed on even date are **not** treated in detail herein.

**a. Detailed Discussion of the References**

**U.S. Patent Publication Number 2003/0033494 (Fujibayashi et al.)** discloses a new storage system connected to an old storage system destined for replacement. Method for performing online data migration includes coupling a first storage system to a second storage system, wherein the first storage system is destined to be replaced with the second storage system; migrating remote copy configuration information from the first storage system to the second storage system; coupling the second storage system to a third storage system remotely located from the first storage system; and migrating data from the first storage system to the second storage system while data are being transferred between the second storage system and the third storage system in accordance with the remote copy configuration information (see, figures, abstract and claims 1-7).

**U.S. Patent Publication Number 2003/0126388 (Yamagami)** discloses a method and apparatus for managing storage-based replication that includes a method for making a remote copy between a first storage subsystem and a second storage subsystem, which are connected to each other via a path. The first storage system is connected to a first host. The method includes providing a first logical volume to the first storage subsystem and a second logical volume to the second storage subsystem. The second logical volume can be a copied logical volume of the first logical volume. The first logical volume and the second logical volume are in sync state. Further, the method includes making a third logical volume in the first storage subsystem. The third logical volume can be a copied logical volume of the first logical volume (see, figures, claim 1 and sections [0010]-[0016]).

**U.S. Patent Publication Number 2004/0148443 (Achiwa)** discloses a method for controlling an information processing system composed of first storage apparatus equipped with a first logical volume, a second storage apparatus equipped with a second logical volume, a third storage apparatus equipped with a third logical volume, an information processing apparatus that accesses the first storage apparatus, a first communication module that communicatively connects the first storage apparatus with the second storage apparatus, and a second communication module that communicatively connects the first storage apparatus with the third storage apparatus (see, figures and summary).

**U.S. Patent Numbers 5,673,382 (Cannon et al.), 6,253,295 (Beal et al.), 6,754,792 (Nakamura et al.) and U.S. Patent Application Numbers 2003/0177321 (Watanabe), 2004/0078399 (Tabuchi et al.), 2004/0107315 (Watanabe et al.), 2004/0128363 (Yamagami et al.), 2004/0153719 (Achiwa et al.), 2004/0193660 (Gagne et al.), 2004/0205294 (Nakayama et al.) and 2004/0230859 (Cochran et al.)** show remote copy system that copies data between a plurality of storage systems.

**b. Distinctions Between the References and the Claims**

The present invention as recited in the claims filed are not taught or suggested by any of the above noted references whether taken individually or in combination with each other or in combination with any of the other references now of record.

The present invention as recited in the claims is directed to a remote copy system which copies data between a plurality of storage systems, that includes: a first storage system comprising a first primary volume; a second storage system comprising a second primary volume; a network apparatus which is coupled to a host computer, the first storage system and the second storage system, and which controls a path for accessing from the host computer to the first primary volume and a path for accessing from the host computer to the second primary volume; and a third storage system which is coupled to the first storage system and the second storage system, and which comprises a secondary volume; wherein: the first storage system stores data received from the host computer into the first primary volume, and sends the data stored in the first primary volume to the third storage system through a network; the third storage system stores the data received from the first storage system into the secondary volume; and when the data stored in the first primary volume is migrated to the second primary volume, the network apparatus transfers an access request issued from the host computer and destined to the first primary volume, to the second primary volume, the second storage system receives, from the first storage system, management information for identifying data to send to the third storage system, the second storage system stores write data received from the host computer and the data received from the first storage system and stored in the first primary volume, into the second primary volume, and sends data determined based on the management information out of the data stored in the second primary volume, to the third storage system, and the third storage system stores the data received from the second storage system, into the secondary volume.

The above described features of the present invention, particularly when the data stored in the first primary volume is migrated to the second primary volume, the network apparatus transfers an access request issued from the host computer and destined to the first primary volume, to the second primary volume, the second storage system receives, from the first storage system, management information for identifying data to send to the third storage system, the second storage system stores write data received from the host computer and the data received from the first storage system and stored in the first primary volume, into the second primary volume, and sends data determined based on the management information out of the data stored in the second primary volume, to the third storage system, are not taught or suggested by any of the references of record whether taken individually or in combination with each other.

**6. Fee (37 C.F.R. 1.17(i))**

The fee required by 37 C.F.R. § 1.17(i) is to be paid by:

☒ the Credit Card Payment Form (attached) for \$130.00.

☐ charging Account \_\_\_\_\_ the sum of \$130.00.

A duplicate of this petition is attached.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger & Malur, P.C., Deposit Account No. 50-1417 (566.43530X00).

Respectfully submitted,

MATTINGLY, STANGER & MALUR, P.C.



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Frederick D. Bailey  
Registration No. 42,282

FDB/sdb  
Enclosures